#### Date June 15, 2009

Clerk of the Court United States Bankruptcy Court One Bowling Green New York, NY 10004

Reference Case No.0912889 (REG), AGT Crunch Acquisition LLC, et.al.

Subject: Complaint from Lawrence D. Posner and David Alexander Posner

I am writing to object to the acquisition of assets of Rock Creek Sports Club (RCSC), located in Silver Spring, MD by L.A. Fitness International, for the following reasons:

- 1. If I wanted to be a member of L.A. Fitness, I would have joined their club. Rock Creek Sports Club is unique among health clubs in the area because it is a small neighborhood gym. It provides a family and community oriented atmosphere that is not available at other clubs in the area. Specifically, I have visited the L.A. Fitness facility in Silver Spring with an open mind and do not find it a satisfactory replacement for RCSC due to the following: the location is beyond walking distance from my home; parking will be a hassle and an expense; the personal trainer sessions are 30-40 minutes instead of 60 minutes and continuing my 60 minute sessions would become much more expensive; no towel service; and I was unimpressed by the staff I met at LAF. I am looking for pilates reformer equipment and training which is missing at LAF and also at RCSC.
- 2. Members who purchased service contracts for Personal Training and Massage that can't be fulfilled before the club closes will become a class of member-creditors in the bankruptcy process. I have filed a complaint to the State of Maryland regarding Crunch fraudulently selling me a package of 16 weekly personal training sessions with Jeshua Reza at RCSC on May 7, 2009 for \$992 when they intended to declare bankruptcy before I could use these weekly personal training sessions and with no provision to refund the value of the unused sessions. Supporting evidence includes the credit card charge for \$992 and the Crunch service agreement both dated May 7, 2009. No compensation has been offered. If personal training sessions were offered at LAF as replacements, I would not consider the LAF sessions to be equivalent. Most other members of this class of member-creditors probably have similar reasons to feel defrauded by Crunch with minor variations.
- 3. Rock Creek Sports Club is the anchor in a very small community mall with a handful of other small businesses (several locally owned restaurants and a dry cleaner). If the club closed it would have a negative impact on revenues for the other businesses. It will also be prejudicial to the neighborhood where we and many of our neighbors appreciate the proximity and availability of RCSC.
- 4. Closing the club will affect the local economy because all of the employees will lose their jobs and join others already looking for work. About 70 people would become unemployed.

I am very interested in other offers seeking ownership of the Club who would continue to lease the current building, maintain the existing professional staff, and continue to offer the services that we currently enjoy, at the prices we have been paying.

I respectfully request that you deny L.A. Fitness approval to acquire the membership agreements of Rock Creek Sports Club and that you actively pursue offers from other qualified bidders who will retain the current operation. While it may be easier for Crunch to sell to L.A. Fitness because of their proposal to close the gym it will not serve the community.

If the sale to L.A. Fitness were approved I would instruct my credit card company/bank to refuse charges

Lawrence Posner RCSC.ObjectionLetter3 6-15-09.doc Page 1 of 2 09-12889-reg Doc 290 Filed 06/18/09 Entered 06/19/09 08:57:54 Main Document Pg 2 of 8

from L.A. Fitness beginning 7/1/2009 for services not provided by Jeshua Reza at RCSC following the Crunch Service Agreement of May 7, 2009.

Sincerely,

Name Address Lawrence D. Posner

1837 Plymouth Street, NW

Washington, D.C. 20012

cc Chambers of the Honorable Robert E. Gerber

Mr. Shmuel Vasser

Mr. Davin J. Hall

Mr. Michael Jacobs

Mr. Philip C. Dublin

Mr. Brian D. Geldert

Ms. Susan Golden

Mr. Ronald Friedman

## **Certificate of Service**

I hereby certify that on June 15, 2009, I served copies of the attached objections by first class mail on the following parties:

- Chambers of the Honorable Robert E. Gerber One Bowling Green New York, NY 10004
- Mr. Shmuel Vasser Dechert LLP 1095 Avenue of the Americas New York, NY 100366797
- Mr. Davin J. Hall
   Dechert LLP
   1095 Avenue of the Americas
   New York, NY 100366797
- Mr. Michael Jacobs Crunch
   West 19 th St., 4 th Floor New York, NY 10011
- Mr. Philip C. Dublin Akin, Gump, Strauss, Haver & Feld LLP One Bryant Park New York, NY 10036
- Mr. Brian D. Geldert
   Akin, Gump, Strauss, Haver & Feld LLP
   One Bryant Park
   New York, NY 10036
- Ms. Susan Golden
   Office of the United States Trustee for the Southern District of New York
   33 Whitehall St.
   New York, NY 10004
- Mr. Ronald Friedman Silverman Acampora LLP 100 Jericho Quadrangle Suite 300 Jericho, NY 11753

Name Signature Lawrence D. Posner and David Alexander Posner

1837 Plymouth Street N.W. David Alexander Posner

Address

1837 Plymouth Street, N.W. Washington, D.C. 20012

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SERVICE AGREEMENT Rock Creek Sports Club

8325 Grubb Road, Silver Spring, MD 20910

Member #: RC1044626

Lawrence Posner Name:

Agreement #: 100000015581 Agreement Date: 05/07/2009

Sales Staff: Jeshua B Reza

Address:

1837 Plymouth St. N.W.

Home Phone:

2027224124

City, State, ZIP:

Business Phone: 2027224124

Washington, DC

Contract is a multi-page document and includes both sides of each page. The words "you" and "your" refer to the Buyer or Client as applicable and "we"

PROGRAM PRICE consists of a Personal Training fee plus applicable taxes. Amounts paid are not refundable except as described in this Contract. You agree to pay any new, additional or increased taxes imposed on this contract.

PERSONAL TRAINING PROGRAM. The program provides individual fitness instruction sessions designed to help achieve Client's fitness geals. The number of sessions purchased are noted below, all of which expire six months from purchase date. The sessions are not transferable. If, at any time, Client does not have current membership privileges, or is not in good standing under any contract for health club membership with the Company, Client may not purchase, or use, Personal Training sessions until they bring their membership current.

Purchase of the Program does not provide the Client with any privileges except as specifically described in this Contract, nor does it include the use of or access generally to, any club, facility, activity, class, program, or equipment, which privileges may be separately purchased. There are no refunds for Personal Training sessions not used within the required period described above. Late arrival for sessions will result in forfeiture of the missed session time. Sessions which are not cancelled at least 24 hours in advance of their scheduled time will be forfeited. We make every reasonable effort to provide the personal trainer of choice; however, we reserve the right to substitute another qualified trainer with no prior notice of necessary. No refunds will be given based on the termination or resignation of any employee. Clients must verify completion of each Personal Training session at the Fitness Desk or Front Desk with their signature, date and time.

You (the buyer) have seven business days to cancel this contract. To cancel, mail or hand deliver a letter to the following address: Crunch, 22 West 19th Street, New York, NY 10011. Attn: Personal Fitness Dept. or the club of enrollment listed below. Do not sign this contract if there are any blank spaces. In the event optional services are offered, be sure that any options you have not selected are lined through or that it is otherwise indicated that you have not selected these options. It is recommended that you send your cancellation notice by registered or certified mail, return receipt requested, in order to prove that you did cancel. If you do hand deliver your cancellation, be sure to get a signed statement from an official of the health club, acknowledging your cancellation. To be effective, your cancellation must be postmarked by midnight, or hand delivered by midnight on 05/14/2009, and must include all contract forms, and any and all documents and evidence of the Program purchase previously delivered to

### **Member Transaction**

Description		Amount	
PT Level 2 16Pk		992.00	
	Subtotal:	992.00	
	Sales Tax:	0.00	
	Total:	992.00	
Credit Card		992.00	
To	tal Tendered:	992.00	

# **Payment Authorization**

The undersigned hereby authorizes Rock Creek Sports Club to draw monthly debits, paper or electronic entry through Visa, Master Card, American Express, or Checking Account covering payments due by the undersigned to Rock Creek Sports Club to cover any and all payments.

I/We certify that I/We have read both sides and understand the terms of this agreement and agree to abide by such terms and acknowledge receipt of a true copy of this agreement. I acknowledge and understand that this agreement is not based on usage and that I am bound to the terms of this agreement.

	Date	Buyer's Signature	Date
Member's Signature	Date	22,010 100	

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Member #: RC1044626 **Lawrence Posner** Name:

Agreement #: 100000015581 Agreement Date: 05/07/2009 Sales Staff: Jeshua B Reza

OBLIGATIONS ABSOLUTE. Other than in the event of permitted cancellations described in this Contract, Buyer may not reduce the amount of any payment for any reason including Client's failure to use any Personal Training sessions.

ASSIGNMENT. This Contract may be assigned by us and, if assigned, the term "Company" will also mean the company to which this Contract is assigned. If this Contract is assigned, the assignee shall have all our rights and powers under this Contract. In the event of assignment, we reserve our rights to assert any defenses we have or may have under this Contract. Neither Buyer nor Client may sell, assign, or transfer this Contract, his/her client card or personal training sessions and any such attempted sale, assignment or transfer shall be null and void.

CANCELLATION UPON DEATH OR DISABILITY. Buyer may cancel Client's Program if Client becomes totally and permanently disabled (which means a condition which has existed or will exist for more than 45 days and will prevent Client from using the facility to the same extent as Client used it before commencement of the condition) or dies before using all of the Personal Training sessions. To cancel under this paragraph for death or disability, send to us, in care of Crunch, 22 West 19th Street,4th Floor, New York, NY 10011, Attn: Personal Fitness Dept., proof of death or a written certification of such disability. You agree to return all Contract forms, and any and all documents and evidence of the Program purchase previously delivered to you. Your cancellation will be effective upon the date of death or onset of disability. Client agrees that we may verify evidence of the Program purchase previously delivered to you. Your cancellation will be effective upon the date of death or onset of disability. Client agrees that we may verify Client's disability directly with Client's physician and Client consents to the release of any medical information to us related to Client's disability. Following cancellation, you will receive a prorated refund of the Contract price paid which is allocable after the date of cancellation. In the event Buyer has prepaid any sum for services, we will promptly receive a prorated returns or the contract price paid which is allocable after the date of contractable. In the event object has prepare any sum to services, we will promptly refund so much of such sum as is allocable to remaining unused Personal Training sessions. Buyer remains obligated for payments for other Client's not entitled to cancel

CANCELLATION UPON RELOCATION. You may cancel this Contract if Client permanently moves thier residence more than 25 driving miles from either the club of under this paragraph. enrollment or any other club which Client is entitled to use under the Program, or any substantially similar club which will honor Client's Program at no additional charge. If any enrollment or any outer club which cheft to enduce to use charge, and the required to adhere to the rules of any club to of these clubs are within 25 driving miles of the new residence, you will not be permitted to cancel Client's Program. Client will be required to adhere to the rules of any club to which Client transfers his or her Program. Buyer remains obligated for payments for other Client's not entitled to cancel under this paragraph.

To cancel under this paragraph, send to our office listed in Paragraph 4 any of the following items as proof of Client's new permanent residence: a current and valid lease,

a utility bill, a bank statement or credit card bill, a yellow change of address label indicating mail was forwarded to Client's new address, or Client's new driver's license with issue date. Your cancellation will be effective only when we receive all these items. Following cancellation, you will receive a prorate refund of the Contract price paid which is allocable after the date of cancellation. In the event Buyer has prepaid any sum for

rollowing cancellation, you will receive a prorate return of the Contract price paid which is allocable after the date of cancellation. In the event buyer has prepare any sum to services, we will promptly refund so much of such sum as is allocable to remaining unused Personal Training sessions.

6. OTHER CANCELLATION RIGHTS. You (the Buyer) may cancel this agreement within 30 days from the time you knew or should have known of any substantial. change in the services or programs available at the time you joined. Substantial changes include, but are not limited to, changing from being co-ed to being change in the services of programs available at the time you joined. Substantial changes menade, but are not inneced to, changing from being cost to be exclusively for one sex and vice versa. To cancel, send written notice of your cancellation to the address provided in the Contract for sending a notice of

cancellation. The best way to cancel is by keeping a photocopy and sending the cancellation by registered or certified mail, return receipt requested.

To cancel under this Paragraph 6, you should send a written cancellation notice telling us that you are canceling to the office listed in Paragraph 4. You agree to include with such notice all Contract forms, and any and all other documents and evidence of the Program purchase previously delivered to you. Following cancellation, you will receive a prorated refund of the Contract price paid which is allocable after the date of cancellation. In the even Buyer has prepaid any sum for services, we will promptly refund so

a provided returns of the Contract price paid minutes allocations and part and care of cancer and cancer a any note associated with or contained in this Contract, in the event the club at which the Contract is entered into ceases operation and falls to offer an alternate location, substantially similar, within ten miles. Buyer remains obligated for payments for other Clients not entitled to cancel under this paragraph.

7. RESERVATION OF RIGHTS. We reserve the right at any time to alter the hours of operation, and the right to amend the cost of, add, modify and/or eliminate any program, facility, activity, class or service of any club, in our sole discretion.

WAIVER AND RELEASE. You (the Buyer, Client, parent, spouse, or guest, as applicable) agree that if you engage in any physical exercise or activity or use any B. WAIVER AND RELEASE. You true Buyer, Client, parent, spouse, or guest, as approached agree triat if you engage in any physical exercise of activity of use any facility on a club's premises, you do so at your own risk. This include, without limitation, your use of the equipment, locker room, showers, pool, whiripool, sauna, steamroom, parking area, or sidewalk and your participation in any activity, class, program, personal training or other instruction now or in the future made available. You agree that you are voluntarily participating in these activities and using the equipment and facilities and assuming all risk of injury or your available. Tou agree that you are voluntarily participating in these activities and damage, loss or theft of any personal property. You agree on behalf of yourself (contraction of any illness or medical condition that might result therefrom or any damage, loss or theft of any personal property. You agree on behalf of yourself ( and your personal representatives, heirs, executors, spouse, administrators, agents, assigns or others) to release and discharge us (and our affiliates, employees,

and your personal representatives, nems, executors, spoose, administration, against or outers at result of (a) your use of agents, representatives, successors and assigns) from any and all claims or causes of action arising out of our negligence. This Waiver and Release of all liability includes, without limitation, injuries which may occur as a result of (a) your use of any facility or its improper maintenance, (b) your use of any exercise equipment which may malfunction or break, (c) our improper maintenance of any exercise any facility of its improper maintenance, (b) your use of any exercise equipment which may maifunction of break, (c) our improper maintenance of any exercise equipment, (d) our negligent instruction or supervision, (e) our negligent hiring or negligent retention of any employee, (f) loss of consortium or (g) your slipping and falling while in any club or on the surrounding premises, YOU ACKNOWLEDGE THAT YOU HAVE CAREFULLY READ THIS WAIVER AND RELEASE AND RELEASE OF ALL LIABILITY. IN ADDITION, YOU DO HEREBY WAIVE ANY RIGHT THAT YOU MAY HAVE, BY OR ON BEHALF OF YOURSELF, YOUR SPOUSE OR ANY CHILD (MINOR OR OTHERWISE), TO BRING A LEGAL ACTION OR ASSERT A CLAIM FOR INJURY OR LOSS OF ANY KIND AGAINST US FOR OUR NEGLIGENCE OR ARISING OUT OF OR RELATING TO PARTICIPATION BY YOU, YOUR SPOUSE OR CHILD IN ANY OF THE ACTIVITIES, OR SERVICES WE PROVIDE AS DESCRIBED IN THIS BARACRAPH. OR ON ACCOUNT OF ANY ILL NEES OR ACCIDENT OR USE OF THE EQUIPMENT, FACILITIES OR SERVICES WE PROVIDE AS DESCRIBED IN THIS PARAGRAPH, OR ON ACCOUNT OF ANY ILLNESS OR ACCIDENT,

9. CLIENT'S RESPONSIBILITY AS TO USE OF CLUB. You (the Buyer, each Client and all guests) should consult with your physician in all events, including a history of heart disease before using our Personal Training services and club. You understand and acknowledge that we have no expertise in a diagnosing, examining or treating any heart disease before using our Personal Training services and club. You understand and acknowledge that we have no expertise in a diagnosing, examining or treating any medical condition. You agree you will not use the clubs with any medical condition, including open cuts, abrasions, sores, infections, maladies or inability to maintain personal medical condition. You agree you will not use the clubs with any medical condition, and the clubs with any medical condition. hygiene, if such condition poses a direct threat to health or safety of yourself or others, and agree you will use the clubs in accordance with all applicable public health requirements. It is your responsibility to consult with your physician to determine if any of these medical conditions exists and, if so, whether such condition poses a direct threat tequirements. It is your responsibility to consult with your physician to determine it any or diese medical conditions exists and, it so, whether social condition poses a direct time at to the health or safety of yourself or others. The club reserves the right to make the final determination in this regard.

10. RULES AND REGULATIONS. You agree to follow all rules and regulations now in force or in the future adopted by us, or our affiliated clubs, including, but not limited to,

10. RULES AND REGULATIONS. You agree to follow all rules and regulations now in force or in the future adopted by us, or our anniated datas, including, but not immediate rules and regulations with regard to hours of operation, use of equipment, services, and club premises, personal hygiene and attire. We reserve the right to revoke your rules and regulations with regard to hours of operation, use of equipment, services, and club premises, personal hygiene and attire. We reserve the right to revoke your rules and regulations with regard to hours of operation, use of equipment, services, and club premises, personal hygiene and attire. We reserve the right to revoke your rules and regulations with regard to hours of operation, use of equipment, services, and club premises, personal hygiene and attire. We reserve the right to revoke your rules and regulations with regard to hours of operation, use of equipment, services, and club premises, personal hygiene and attire. We reserve the right to revoke your rules and regulations and regulations of number of the reserve the right to revoke your rules. remaining unused Personal Training sessions, without returns, if you or your guest rail to follow any rules and regulations, for reasons or nuisance, disturbance, mora turplicate or fraud, or if we determine that your actions may endanger yourself of other persons. If your remaining unused Personal Training sessions are revoked, your obligations to make payments under this Contract continue as scheduled. It is prohibited for any Client or guest to conduct, purchase or subscribe to any commercial business or activity or solicit any business competitive with that of the club (including personal trainer services) at any club without our prior, express, written consent. Client agrees to pay to us any solicit any obsiness competitive with that of the circle (including personal trainer services) at any club without our prior, express, written consent. Client agrees to pay to us any revenues received by Client or Client's guest in violation of this policy andreasonable attorney's fees, where permitted, and court costs incurred in that regard. If, at any time after sessions are purchased, Client does not have current membership privileges, or is not in good standing under any contract for health club membership with the Company, client may nevertheless utilize remaining Personal Training sessions within the permitted time period; provided he/she signs the clubs daily guest register prior to each such

session and limits usage of the club strictly to participation in such session.

11. DISHONORED CHECK/AUTOMATIC PAYMENT CHARGES. Where permitted by law, Buyer agrees to pay a \$15.00 fee for (a) any dishonored or returned check or other item, and (b) any Automatic Payment authorized By Buyer which is rejected or not honored by Buyer's bank or credit card issuer for any reason, along with any costs and expenses incurred in connection with Collection of such dishonored, returned or rejected check, other item or Automatic Payment.

- EXCLUSIVE AGREEMENT. This Contract and all rules and regulations of the Company, as revised from time to time, constitute the entire and exclusive agreement between the parties, and supercede all prior promises, representations, understandings and/or agreements relating to this Program purchase. This Contract may be modified only by an instrument in writing; however, we or any assignee of this Contract are authorized to correct patent errors in this Contract (and In other related documents). At our option, this Contract shall be null and void if it is not completed by our employee in accordance with our then current pricing and payment programs or if we determine at any option, this contract shall be not and void in it is not completed by our employee in accordance with our dial content pricing and payment programs of a wearing that you misrepresented your qualification for a price or program at the time of purchase. No change to any printed term in this contract shall be valid.

  14. GOVERNING LAW. This Contract is governed by the laws of the state in which it is signed and to the extent preempted, by federal law.
- MISCELLANEOUS. The provisions of this Contract are severable and if any provision is determined to be illegal or unenforceable the remaining provisions and any partially enforceable provisions shall nevertheless be enforceable unless otherwise prohibited by state law. Our failure to enforce any remedy or provision of this Contract shall not be construed as a waiver of such remedy or provision.
- INDEPENDENT CONTRACTORS. From time to time we may make available to Clients the services of independent contractors. We do not warrant or Guarantee the es and do not guarantee that these services will remain available to Clients for any period of time.

important Account information

Cash Advance Limit

Quick Reference

Your next Autopay automated payment of will be deducted from your designated bank account on 06/04/2009.

ThankYou Flight Points will appear on your billing statement approximately 6 to 8 weeks following the

initial departure date of travel

Citi PremierPass Card-Elite Level

Main Document

Account Activity

Payment Due Date:

06/04/2009

Apr 10-May 11, 2009

Minimum Amount Due: Total New Balance: Payment must be received by 5:00 PM local time on the payment due date.

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At a Glance

Previous Balance Revolving Credit Line Amount Over Past Charges Finance Total New Balance

Sale 04/24 04/21 50 04/07 03/23 Standard Purchases 04/10 04/10 Post 04/21 05/04 05/02 04/24 Post Description Description A CONTRACTOR OF THE PROPERTY O Amount Amoun



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Account Number

Account Member

How to Reach Us 1-800-967-9800

Customer Service BOX 6062 SIDUX FALLS, SD

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